IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH

CWP No.9535 of 2006(O&M)
Date of Decision: 9.11.2006

M/s G.S.Atwal & Company (Gua)

Petitioner

versus

Union of India and others

Respondents

CORAM:- **HON'BLE MR. JUSTICE JASBIR SINGH**

HON'BLE MR. JUSTICE PRITAM PAL

Present: Shri Puneet Bali, Advocate for the petitioner
Shri Rohit Sapra, Advocate for respondent Nos.3 to 5

Jasbir Singh, J.

This writ petition has been filed with a prayer to issue directions to the respondents to accept *one time settlement,* as agreed earlier between the parties vide letter dated 16.5.2001 (Annexure P/2), charge interest @ Prime Lending Rate (Simple), as per Policy/guidelines issued by the Reserve Bank of India and also as per Policy laid down by the bank-respondent No.3. It has further been prayed that a writ of certiorari be issued to quash order of proclamation of sale dated 10.4.2006 (Annexure P/16), passed by the Debt Recovery Tribunal, Chandigarh.

A perusal of record indicates that the petitioner firm alongwith its sister concern, namely, M/s Surjit and Surinder Investment Private Limited, availed credit facility in 3 different accounts in their favour, from respondent No.3 the bank. It was in the shape of a Deferred Payment Guarantee (DPG), over draft limit etc. Both the concerns, referred to above, failed to repay the loan amount and became defaulters, which forced the

bank to file several recovery applications before the Debt Recovery Tribunal. Thereafter, on request made by the petitioner and its sister concern, their defaulted accounts were settled vide letter dated 16.5.2001 (Annexure P/2) and they were directed to deposit an amount of Rs.120.50 lac immediately with the bank and balance amount of Rs.361.50 lac alongwith interest @ PLR (simple) on the total settled amount i.e. Rs.482.00 lac be paid within one year, in installments, subject to terms and conditions, as were mentioned in letter, referred to above.

It is not in dispute that the petitioner and its sister concern failed to adhere to the time schedule given to them for repayment of the loan amount. At their request, they were permitted to repay amount upto 31.3.2002. Again they failed to pay the agreed amount and at request, period was extended upto 31.3.2004. During this period, out of the settled amount, it appears that the petitioner and its sister concern had paid an amount of Rs.2 crores. Ultimately, the bank, vide letter dated 28.9.2004 (Annexure P/6) withdrawn the concession given to the petitioner and its sister concern under *one time settlement scheme*. That order has become final. As on today, liability is near about 49 crores. Documents on record, clearly indicates that the petitioner and its sister concern are not interested in repayment of the loan amount, rather they are dragging the bank in frivolous litigation.

After issuance of letter Annexure P/6, the petitioner filed CWP No.12858 of 2004 raking up similar controversy, as referred to above. The same was ordered to be dismissed as withdrawn on 25.10.2005 with liberty to the petitioner to make a representation to the bank for deciding its case in the light of fresh guidelines issued by the Reserve Bank of India on 3.9.2005.

Thereafter, it appears that a representation was made by the petitioner to settle its account and the same was rejected by the respondent – bank vide letter dated 10.1.2006 (Annexure P/12).

Petitioner, by filing Civil Writ Petition No.2322 of 2006, laid challenge to that communication. The above said writ petition was dismissed by this Court on 16.2.2006, by making reference to facts, as mentioned above. It was observed by this Court as under:-

> *"In this view of the matter, we are unable to persuade ourselves to agree with the learned senior counsel that having accepted proposal for settlement on an earlier occasion, the bank cannot now be permitted to change its stand on same set of facts. In the light of the afore-extracted stipulated in the guidelines, we are unable to (sic) as what weighed with the bank in accepting the proposal for one-time settlement, though ultimately the petitioner failed to honour the settlement. Be that as it may, bearing in mind the past conduct of the petitioner, briefly referred to above, we find it difficult to hold that in rejecting petitioner's representation for one-time settlement, the bank has acted unreasonably or in violation of the guide-lines, warranting our interference in exercise of extra ordinary jurisdiction under Article 226 of the Constitution."*

It is apparent from the records that the petitioner's sister concern also filed a Civil Writ Petition No.12820 of 2004, which was dismissed by this Court vide order dated 3.4.2006. In the meantime, the petitioner has filed the present writ petition.

Facts mentioned above, clearly indicates that intention of the petitioner is to delay repayment of the loan amount in one way or the other. No sincere effort has ever been made to settle its account. Petitioner has failed to show us that there exists any Policy of the Reserve Bank of India, on the basis of which, the petitioner can claim that even after failure of *one time settlement*, it is supposed to pay defaulted amount alongwith interest @ Prime Lending Rate (Simple). No such Policy has been brought on record. There is a specific denial by the bank regarding existence of any such Policy. In view of this, no relief can be granted to the petitioner. Furthermore the petitioner has stated that in case of other individuals, where *one time settlement* has failed, the interest was charged from them @ Prime Lending Rate (simple). This fact was denied at the time of arguments by the counsel for the respondents. Petitioner has failed to show any averment made, in that regard, in this writ petition. This Court is convinced that the petitioner and its sister concern are unnecessarily dragging the bank in litigation. Otherwise also, order Annexure P/16 has been passed by the Recovery Officer-II, Debt Recovery Tribunal, Chandigarh. Admittedly, that order is appealable. No case is made out for interference.

Dismissed.

(Jasbir Singh)
Judge

November 09, 2006
gk

(Pritam Pal)
Judge